Mr. Bernard Fensterwald
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Washington, D.C. 20006

9/22/76

Dear Bud,

You are so close to the fulfillment of a great longing and ambition and I think I do know how you feel.

Recently I have given you a number of cautions of various kinds. Characteristically you have ignored them. We have a long history of this, a history in which I do not recall your once looking back and complaining that I was wrong. Infrequently you have grudgingly said I was right.

I'd prefer to remain detached from all this and from cautioning you when you are incapable of considering anything except your own longings and your self-assurances. However, I owe this effort to you and to all others.

Don't, under any circumstances, become counsel or anything else on the House committee. I have not been asked but I have written Rick that I would not join the staff and that I believe none of us should. Under other than the real circumstances I'd feel otherwise, but there are those real circumstances.

I've heard no word of executive-agency interference in Hill developments and until after the election I would not expect any real effort. When the time comes there will be real activities and it is inevitable that you will be a focus of it. Bowdler and Gonzales can be utterly ruined with legitimate ridicule. So can you, with all the foolish things you've said and done. I was sent one tape that could do it and I know they have it. Nobody has heard the one I have, not even Jim.

This, however, will be the least of your real problems. The spooks have been at work for some time. During this time they have given me what can be seriously hurtful to you. You never remember those ill-advised impulses, acts in which I do not have any questions about what you had in mind. You have, nonetheless, done things no lawyer should have done, they have ample records and they've given me a very serious problem in letting me have a generous discipline. I know of many others they have not let me have.

Give the most serious thought to the position in which I will be if you do become counsel - or take any other staff position. You know there is only one way in which I can or will resolve any conflicts of interest. There will be many.

You should recall that I am the first to ask for a Congressional investigation as the best approach. I have no opposition to one in general. I do oppose irresponsibilities.

If you take any staff job now I think there is no chance that your life will thereafter be what you would like it to be for you and your family and particularly your career. I can see utter ruin for you and charges before the bar, whether or not successfully. I can also see your doing what would require responses by me. In the past I have eschewed just about all of this. With a Congressional committee I can't see how I could continue to. It is not just moral and ethical considerations, either. I have a large investment in truth and honesty and responsibility in any investigation. Do not expect me to abandon my life to indulge your ambition.

You paid no attention when I warned you of the possibility of a fee suit and then you shrugged your shoulders. Bad judgement. Now that his civil suit has been thrown out he is more desperate. They have been dealing with your Nashville enemies for years. They can and will sue you, with probably wealthy right-wing support and with what will hurt you professionally more seriously than you can imagine if he loses. Your taking a staff job will give him what he lacks now.

I do not expect you to welcome this and frankly I do not believe you are emotionally capable of thinking it through as you would for a client. However, I believe I serve many interests, including yours, in taking this time all over again when there is so long a past telling me I waste the time.

You have forgotten how many eggs you've laid, how many are not chickens waiting for a roost. The probability is that you did not recognize you were laying eggs.

This is the way your mind works, alas. This gives you a real problem now because it will be discouraging even the effort to heed my cautions. You'll have self-justifications without end.

And you surely have led a charmed life. Few people could have any reputation left with it what has not done you real harm. To put this another way, you used up all your expectable luck long ago. I don't think there is any chance at all that you can luck through what I believe is inevitable if you take any staff job on the committee.

I have done nothing addressing you and have none planned. I have taken a few other initiatives. I expect to take more. In some you will be saddled with a conflict of interest you have no way of shedding. You already have it without recognizing it because your mind always turns away from these kinds of considerations. Once you have an official post there will be a radical difference, especially for me. If I have to serve my own interest, I will. Events will establish that it is not a selfish interest.

I'm genuinely sorry about the situation in which you now are. I can understand your longing, if I do not share it. But I'm sorriest because I do not expect you to pay a bit of attention to anything except this all-consuming ambition.

Jim told me that you told him you'd heard a radio broadcast saying I was going to be staff director. I'd be interested in knowing when and where you heard this and if any authority was quoted. There is no basis for it. I was not asked, I was not questioned about it by any reporter or radio station and I would not accept if the offer were made. I have so written Rick, if not with respect to my one position. He did not ask me. I stated a general belief that nobody identified as a critic should be on this committee's staff. When reports resulting so have it that learning plans for you to be both counsel and staff director I am even more curious about this.

I have received no feelers and expect none. Those of you who have been working on this would not have it anyway.

The start is much more inauspicious than I think you realize. And it is already controversially tainted.

Something else has just come to mind. I'd not thought of it before and have not thought about it now. It is the position in which you would put Jim when he remains Ray's lawyer by court order. If he faces any conflicts you know how he has to resolve them. There is a King subcommittee and I'm aware of some of the purely political black leadership beliefs. Aside from this the probability of conflicts is great.

You really should have thought this through long ago. Too bad you didn't and thereafter avoided confrontation with my cautions.

Sincerely,